

89-1519

Supreme Court, U.S.  
FILED

MAR 20 1990

JOSEPH F. SPANIOLO, JR.  
CLERK

IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1989

ALAN WINTERBOURNE  
Propria Persona

Petitioner

vs.

WORKERS' COMPENSATION APPEALS BOARD (WCAB);  
VENTURA COUNTY COMMUNITY COLLEGE DISTRICT ;  
ILA WINTERBOURNE

Respondents

PETITION FOR WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Alan Winterbourne  
684 Milton Avenue  
Ventura, CA 93003  
(805) 642-1283  
Condensed Ver. R.33.1C



## QUESTIONS PRESENTED

Does the California State Agency:  
WORKERS' COMPENSATION APPEALS BOARD,  
referred to as WCAB have authority in every  
case to join an involuntary Plaintiff in a  
stress related WCAB case to determine and  
limit liability and damages of an employer  
from possible future litigation when the  
process in and of itself increases  
litigations, and stress on parties trying  
to not be involved while parties also try  
to not be legally forced to release or sue  
a possible guilty party because of ones  
emotional and financial composure brought  
about by ones father's stress related death  
when not absolutely necessary?

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## FEDERAL COURT OPINIONS

The court of Appeals for the Ninth Circuit dismissed reviewing case 89-56048 for lack of jurisdiction pursuant to Cal. Labor Code 5955 (APPENDIX A), after dismissal of Petition for Writ of Review to be unjoined from the order of United States District Court Central Division (APPENDIX B) ruled lack of subject matter pursuant to Federal Rules of Civil Procedure Rule 12b.

## JURISDICTION

Jurisdiction is claimed under Title 28 USC sec. 1331 Federal Question, Constitutional amendments 1,4,5,14, and Federal Rule of Civil Procedure 19(a) on the joining of and involuntary plaintiff.



## STATEMENT OF THE CASE

On July 12, 1984 my father William B. Winterbourne died after ingesting Potassium Cyanide due to work related stress. On August 7, 1984 my mother filed an WCAB application for death benefits. In the Spring of 1987 my mother Ila Winterbourne said I must sign a paper releasing Ventura College of liability with respect to my father's death. After this notice I notified parties involved about the mistake of including me in the case and of my nonparticipation status, and that I could not determine liability of Ventura College or release them of liability directly or indirectly. A long drawn out legal proceeding then occurred. The final judgment of the United States Appeals Court left no other avenues of Review/Appeal.





## REASONS FOR GRANTING WRIT

I claim under the Constitution, Federal, and State laws and jurisdiction the right and privilege to not be forced by any agency whether State or Federal to be required to sue, or release a party of liability where my financial and emotional composure could be harmed, which would relinquish rights guaranteed all United States citizens. Under the duality clause a citizen can bring a civil and a WCAB suit while some states restrict civil cases in place of WCAB suits, California does not. The damages suffered as mentioned in the California Supreme Court case and Reply, Writ of Review S008879 far exceeds the amount allowable by WCAB code requirements. WCAB Title 8 Sec 10364 requirement on determining liability creates additional stress and litigation which is not needed.



## CONCLUSION

I request of the highest court in the land to unjoin me from my mothers' case, and not be required to sue a party or be barred from future litigation, just because a party feels that liability or amount of damages in all cases must be determined when not absolutely necessary.

Wherefore Petitioner pleads for relief:

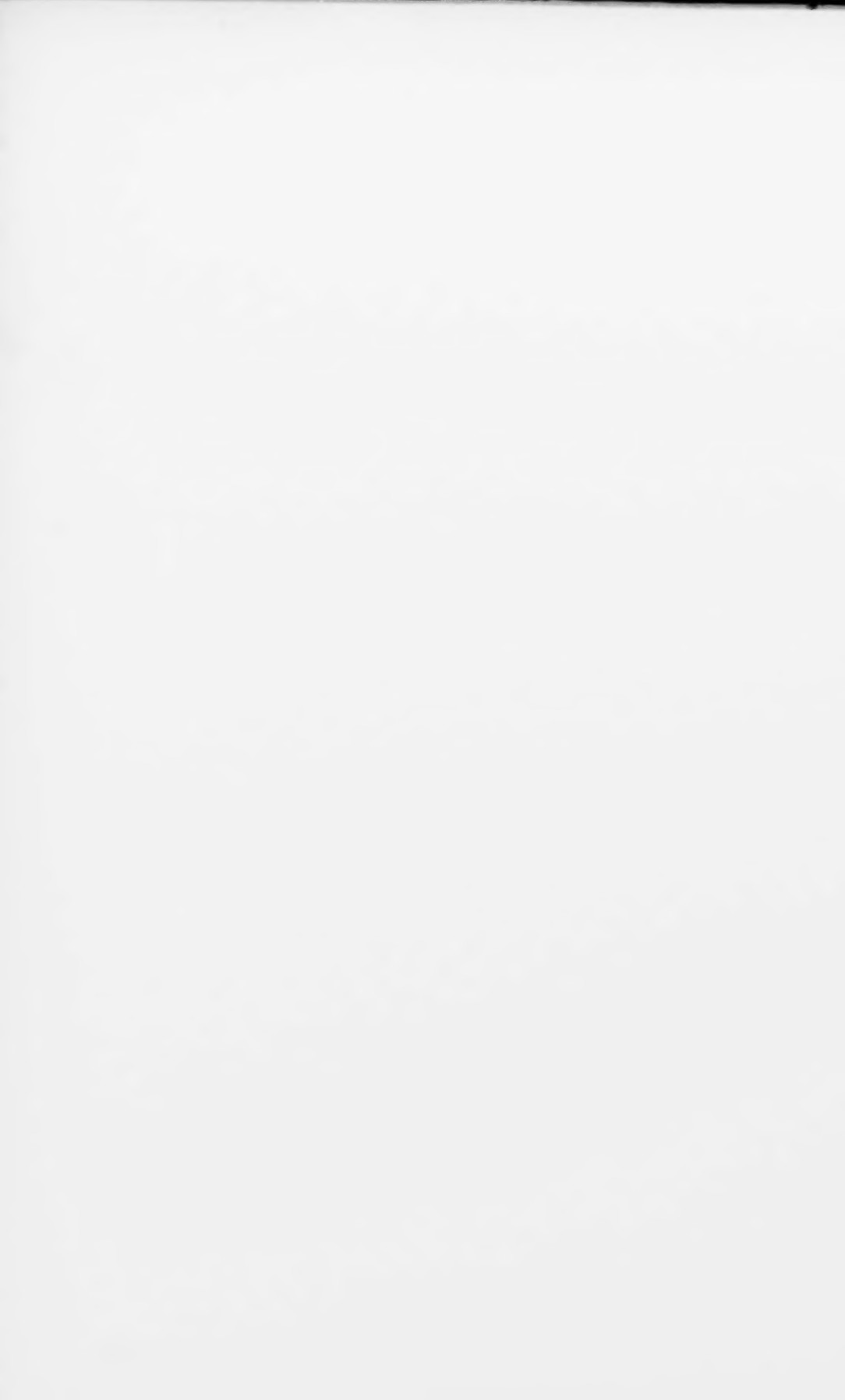
1. That a WRIT OF CERTIORARI be issued commanding WCAB to certify fully to this court.
2. That following such inquire determination by this court it be ordered adjudged and decreed that the decisions made by lower courts and agencies be annulled, vacated and set aside.
3. That the petitioner be granted such other and further relief as may be proper and just as in the premise.

Respectfully Submitted,

*Alan Winterbourne*

Dated March 19, 1990  
Condensed March 26, 1990

Alan Winterbourne



UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 21 1989

CATHY A. CATTERSON, CLERK

U.S. COURT OF APPEALS

ALAN WINTERBOURNE

No. 89-56048

Plaintiff-Appellant, DC# CV-89-1887-RB  
Central California

vs.

WORKERS' COMPENSATION APPEALS BOARD, )  
et al., ) Order  
Defendants-Appellees. )  
\_\_\_\_\_ )

Before: POOLE, NELSON, and LEAVY, Cir. Judges

The unopposed motion to dismiss this  
appeal for lack of jurisdiction is granted.  
See Cal. Labor Code sec 5955. Appellees'  
motion for sanctions on appeal is denied.

MoCal 12/19/89









sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure came on regularly for hearing before this court on August 14, 1989 in Department 17, the Honorable Robert C. Bonner presiding.

Margaret Daley Ludington of Grancell, Lebovitz, Strander, Marx and Greenberg appeared as attorney on behalf of the moving party, Respondent-Defendant VENTURA COUNTY COMMUNITY COLLEGE DISTRICT; Lawrence Silver of Goldschmid, Silver and Spindel appeared as attorney for respondent-Defendant, ILA WINTERBOURNE. Petitioner-Plaintiff, ALAN WINTERBOURNE appeared in propria persona. There was no appearance made by Respondent-Defendant WORKERS' COMPENSATION APPEALS BOARD.

## APPENDIX B2



After full consideration of the evidence, points and authorities and oral arguments submitted by all parties,

IT IS HEREBY ORDERED that the Motion to Dismiss under Rule 12(b) be, and the same is hereby, granted; the Petition-Complaint is dismissed.

IT IS FURTHER ORDERED that the Motion for Sanctions under Rule 11 be, and the same is hereby denied, despite that the Court finds that the claims raised by the Petitioner are warrantless, meritless, frivolous, and without factual or legal foundation. Consequently, if Petitioner ever raises said claims again before this court monetary sanctions shall be assessed.

Dated 8/24/89

ROBERT C. BONNER

United States District Judge

APPENDIX B3